

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

AXIS CAPITAL, INC.,)	Case No. 8:08CV94
)	
Plaintiff,)	
)	
vs.)	
)	
ADVANTA MEDICAL & PHYSICAL)	
THERAPY, P.C., a Professional)	
Corporation; and RICHARD SCHUYLER,)	
Guarantor,)	DEFAULT JUDGMENT
)	
Defendants and Third Party)	
Plaintiffs,)	
)	
vs.)	
)	
SPINAL AID CENTERS OF AMERICA,)	
INC.,)	
)	
Third Party Defendant.)	

This matter is before the Court upon the Motion of Defendants/Third-Party Plaintiffs, Advanta Medical & Physical Therapy, P.C. and Richard Schuyler for Default Judgment against the Third-Party Defendant, Spinal Aid Centers of America, Inc.(Filing No. [70](#)), The Court hereby finds as follows:

1. Defendant/Third-Party Plaintiff Advanta Medical & Physical Therapy, P.C. is a professional corporation authorized to do business under the laws of the State of Georgia.
2. Defendant/Third-Party Plaintiff Richard Schuyler is a resident of Marietta, Cobb County, Georgia.
3. Third-Party Defendant Spinal Aid Centers of America is a Florida corporation and is not a minor or incompetent person.
4. This Court has jurisdiction pursuant to 28 USC § 1332.
5. The above-captioned third-party action was commenced by filing a Third-Party Complaint in this Court on May 1, 2008.
6. Defendants/Third-Party Plaintiffs served the Summons via personal service upon the Third-Party Defendant on June 30, 2008.
7. The Third-Party Defendant failed to file a responsive pleading within twenty (20) days from the date of service.

8. The Defendants/Third-Party Plaintiffs moved the Clerk of the Court to enter a default, and the Clerk entered a Clerk's Entry of Default on August 8, 2008.

NOW, IT IS ORDERED that judgment is entered against the Third Party Defendant, as follows:

- a. The Court hereby declares that the Franchise Agreement, dated and signed by Advanta Medical & Physical Therapy, P.C., by and through its authorized representative, Richard Schuyler, is void, was breached, and is otherwise unenforceable;

- b. Judgment is entered in favor of the Defendants and Third Party Plaintiffs and against the Third Party Defendant in the total sum of Two Hundred Thousand Seven Hundred Fifty-Six Dollars and 28/100 (\$200,756.28), such sum representing the following:

- i. the amounts previously paid by Defendants/Third-Party Plaintiffs to the Third-Party Defendant, the amounts otherwise paid in connection with the Franchise Agreement, and the amounts paid for franchise advertising, in the collective amount of Eleven Thousand Five Hundred Twenty-Eight Dollars and 00/100 (\$11,528.00);

- ii. the amount previously paid by Defendants/Third-Party Plaintiffs to Plaintiff in the amount of Eight Thousand Nine Hundred Three Dollars and 71/100 (\$8,903.71);

- iii. One Hundred Forty Thousand Two Hundred Fourteen Dollars and 25/100 (\$140,214.25) representing the amount of the

Judgment entered in favor of Plaintiff against Defendant/Third-Party Plaintiffs; and

iv. Forty Thousand One Hundred Ten Dollars and 33/100 (\$40,110.33) representing the fair and reasonable attorney fees and expenses incurred by Defendants/Third-Party Plaintiffs in defending the Complaint of Plaintiff and in pursuing the Third Party Complaint against Third-Party Defendant.

DATED this 3rd day of December, 2009.

BY THE COURT;

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court